United Nations A/C.5/57/SR.27

General Assembly
Fifty-seventh session

Official Records

Distr.: General
4 December 2002

Original: English

Fifth Committee

Summary record of the 27th meeting
Held at Headquarters, New York, on Thursday, 21 November 2002, at 9.30 a.m.

Chairman: Mr. Sharma ..... (Nepal)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Mselle

Contents

Agenda item 124: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (*continued*)

Agenda item 125: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (*continued*)

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Subvention to the United Nations Institute for Disarmament Research (UNIDIR) resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (continued)

Organization of work

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room DC2-750, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate corrigendum for each Committee.

02-70463 (E)

The meeting was called to order at 9.35 a.m.

Agenda item 124: Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (*continued*) (A/56/853; A/57/5/Add.12 and Corr.1, A/57/367, A/57/439, A/57/480 and A/57/593)

Agenda item 125: Financing of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 (*continued*) (A/56/853; A/57/5/Add.11 and Corr.1 and 2, A/57/347, A/57/368, A/57/439, A/57/481 and Corr.1, A/57/482, A/57/587 and A/57/593)

1. **Ms. Lock** (South Africa) said that her delegation was encouraged by the success achieved by the International Tribunal for Rwanda, despite the difficult circumstances in which it operated and the unrealistic demands that Member States had occasionally placed on it. She was particularly encouraged by the assurances that the Tribunal was making steady progress towards meeting its biennial performance projections and that it had taken a number of measures to exercise greater judicial control over proceedings and to expedite trials and appeals, while scrupulously observing international norms governing fair trial and full respect for the rights of the accused. Her delegation hoped that the appointment of the ad litem judges would contribute to the Tribunal's efforts to reduce the length of pre-trial detention and that the Tribunal's original proposal for nine ad litem judges would receive serious consideration by the relevant organ.

2. The unacceptably high vacancy rate at the Tribunal was a matter of concern and her delegation supported the Advisory Committee's recommendation that greater flexibility should be exercised in the recruitment process. The long delay in filling the posts of Chief of Prosecution and Deputy Prosecutor was particularly disturbing and her delegation was therefore encouraged by the Secretariat's assurances that there was an abundance of qualified candidates in the region and elsewhere. Given the important role that the Office of the Prosecutor in Arusha was expected to play in the implementation of the Tribunal's completion strategy, those positions should be filled without delay. Member States also had a collective responsibility to ensure that the Tribunal received all the financial and administrative resources it needed to fulfil its mandate.

3. The International Tribunal for Rwanda had made and would continue to make a significant contribution to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda. However, the responsibility of the United Nations for promoting national reconciliation and justice for the victims of the 1994 genocide should not end upon the expiration of the Tribunal's mandate. In that connection, her delegation welcomed the report of the Secretary-General on the long-term financial obligations of the United Nations with regard to the enforcement of sentences (A/57/347). Those African States that had indicated their willingness to accept and imprison persons convicted by the Tribunal should receive the support of the United Nations for the upgrading of prison facilities to meet minimum international standards. The Organization should also contribute to the upkeep and maintenance costs arising from the enforcement of sentences. It was therefore a matter of concern that the Tribunal had not fully utilized the resources that had been budgeted in 2001 for the upgrading of prison facilities, owing to the uncertainties that had arisen from an interpretation that the Tribunal's statute did not include provisions for the upgrading of such facilities. That interpretation had led to a situation in which no provision had been made in the resource requirements for 2002-2003 for the upgrading of facilities. Her delegation was encouraged, however, by the observation in paragraph 17 of the report of the Secretary-General that it would be proper and lawful for the United Nations to bear such costs, and it would welcome an indication of how the situation could be remedied.

4. **Ms. Nakian** (United States of America) said that her delegation continued to support the work of the International Tribunals for Rwanda and for the Former Yugoslavia. It noted that many positive steps had been taken to implement the recommendations in the reports of the United Nations Board of Auditors (A/57/5 Add.11 and Add.12, in the Secretary-General's first report on the implementation of the Board's recommendations (A/57/416/Add.1) and the report of

the Expert Group to Conduct a Review of the Effective Operation and Functioning of the International Tribunals for the Former Yugoslavia and for Rwanda (A/56/853).

5. Both Tribunals had specifically prohibited overbilling and frivolous practices by counsel, and fee-splitting and gift-giving between members of the defence team and their clients. They had formulated, or were in the process of formulating, a working definition of "indigence" to determine who qualified for legal aid. Her delegation commended the International Tribunal for the Former Yugoslavia for improving the management of its legal aid programme and for enforcing international best practices in legal ethics. It recognized that the International Tribunal for Rwanda had exercised greater control over judicial proceedings and had imposed sanctions for unwarranted judicial and administrative conduct. Much had been achieved, but much remained to be done.

6. Her delegation noted with concern that some of the posts approved by the General Assembly in resolution 56/248 to provide the two Tribunals with on-site audit and investigation services had not been filled. It called for action to remedy that situation, and requested details on the recruitment process. Her delegation was not convinced that the International Tribunal for Rwanda had effectively managed, monitored and controlled expenditure within its legal aid system, and therefore concurred with the recommendation of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) not to authorize additional defence counsel expenditure of $3.7 million for the remainder of the biennium 2002-2003. It wished to receive details of the findings of the panel established to review those costs (A/57/368, paragraph 29). Like ACABQ, her delegation viewed the long-standing vacancies for the posts of Deputy Prosecutor and Chief of Prosecution as a problem which had undoubtedly affected the ability of the Office of the Prosecutor in Arusha and in Kigali to develop the coherent, coordinated investigation and prosecution policy it would need to establish a completion strategy for its work.

7. Reflecting its concern at escalating defence counsel costs, her delegation supported the recommendation of the Advisory Committee that the additional appropriation of funds which the International Tribunal for Rwanda had requested on the grounds of exchange rate gains and cost savings should not be approved. In any event, positive exchange rate trends might continue, making it premature to authorize additional funds for the current biennium.

8. Although the Security Council had approved the recruitment of four ad litem judges for the International Tribunal for Rwanda, it appeared that the composition of the Tribunal's Chambers was such that only multiples of three judges (three, six or nine) could be used. Her delegation wondered whether the services of the fourth judge would therefore be utilized. It agreed with ACABQ that, in the light of the high vacancy rates at the International Tribunal for Rwanda, the requested number of support staff for the ad litem judges should be reduced and additional needs met through redeployment. The appointment of the ad litem judges should place the Tribunal in a better position to establish a strategy for the completion of its work, and the number of staff it employed could be expected to decrease once its investigations came to an end in 2003. With regard to the long-term costs of enforcing the Tribunal's sentences, her delegation shared the opinion of ACABQ that the model agreements with the countries accepting prisoners had developed in an ad hoc manner, and urged action to provide policy guidance on that matter.

9. With regard to the request for the approval of an additional trial team for the International Tribunal for the Former Yugoslavia, which had originally not been granted, the information provided by the Tribunal, and its intention to adhere to its completion strategy, had led her delegation to lend support to the addition of at least one trial team to the Prosecution Division of that Tribunal. In the context of the Tribunal's completion strategy, her delegation agreed that the Tribunal should start to plan early for a reduction in the number of investigation staff in the Office of the Prosecutor.

10. **Mr. Kandanga** (Namibia) said that his delegation was concerned about the escalation of defence counsel costs at the International Tribunal for Rwanda, but commended its Registrar and judges for the action they had taken to remedy the situation. It looked forward to hearing the recommendations of the panel appointed to review the defence counsel arrangements. It was not acceptable that the two critical positions of Deputy Prosecutor and Chief of Prosecution had remained vacant for so long. As the Advisory Committee had pointed out, the situation had not been caused by a shortage of qualified candidates. His delegation concurred with ACABQ that the Office of Internal

Oversight Services should conduct a management review of the Office of the Prosecutor, paying particular attention to the circumstances which had caused the two posts to remain unfilled.

11. With regard to the report of the Secretary-General on the long-term financial obligations with regard to the enforcement of the sentences (A/57/347), his delegation requested further explanation as to why only part of the allocation of resources to upgrade prison facilities authorized for 2001 had been spent, especially in view of the observation in the report that such expenditure appeared to be lawful and proper. It was unfair to expect countries with limited financial means to improve detention conditions to meet minimum United Nations standards without assistance from the Organization. The issue was of great concern to a number of African countries.

12. **Ms. Udo** (Nigeria) said that the existence of the Tribunals testified to the determination of Member States to condemn the propagation of evil in all its manifestations. However, while the International Tribunal for the Former Yugoslavia had made significant progress towards implementing the reforms that enabled it to discharge its mandate more effectively, the International Tribunal for Rwanda continued to be plagued by institutional problems. The high vacancy rate, for example, including the failure to fill the posts of Chief of Prosecution and Deputy Prosecutor, despite repeated appeals by the General Assembly for the posts to be filled without delay, gave cause for particular concern. The General Assembly should be given a detailed explanation of the reasons for that situation and the Office of Internal Oversight Services should conduct a management review of the Office of the Prosecutor, paying particular attention to the problems that had arisen in filling those two critical posts.

13. The other institutional problem of the International Tribunal for Rwanda stemmed from the lack of adequate management support for such a sensitive Tribunal. Unfortunately, as long as the posts of Chief of Prosecution and Deputy Prosecutor remained unfilled, there could be no real solution to the problem. The Tribunal was in dire need of leadership and guidance to develop a completion strategy for investigation and prosecution, but it lacked the requisite personnel since the Prosecutor was busy with other equally important duties.

14. Her delegation was also concerned about the overexpenditure for contractual services for the International Tribunal for Rwanda and the related issue of the continuously escalating indigency expenses for the defence counsel. There was need for proper management and auditing of such services, yet, one year after the General Assembly had approved them, the posts were still not filled.

15. On the issue of the enforcement of sentences, her delegation noted with surprise that the agreements which the Tribunal had concluded with the countries concerned had failed to state that the Tribunal would bear the cost of upgrading prison facilities, despite the fact that the sum of $213,500 had been provided for that purpose. It concurred with the Advisory Committee's position that future budgetary requests on the enforcement of sentences would be considered on a case-by-case basis.

16. The International Tribunal for Rwanda should make a serious effort to address the issues raised in the various reports and to learn from the experience of the International Tribunal for the Former Yugoslavia. It should also develop a clear completion strategy that would guide it to the completion of its investigation, which was projected for June 2003.

17. **Mr. Lamba** (Malawi) said that the work of the two Tribunals had helped to engender a sense of justice in the minds of the victims of the horrific acts of genocide that had been perpetrated in the two countries. His delegation noted with satisfaction that the International Tribunal for Rwanda had indicted 80 persons, 60 of whom were currently in custody. It hoped that, despite the challenging circumstances in which the Tribunal continued to operate, conclusive judgements would be made on some pending cases by the end of the year.

18. His delegation was concerned, however, about the high rate of unfilled vacancies on the Tribunal, despite the abundance of suitably qualified persons in the region and elsewhere. Of particular concern was the failure to fill the posts of Chief of Prosecution and Deputy Prosecutor. The matter should be given the urgent attention it deserved in order to protect the Tribunal's integrity. Extreme caution should be taken to maintain the standard of performance through the selection of appropriately qualified personnel for the posts. The Secretary-General should also expedite the

appointment of four ad litem judges to strengthen the Tribunal.

19. His delegation supported the proposal to revise the appropriation for the International Tribunal for Rwanda for the biennium 2002-2003, taking into account the additional requirements arising from the various adjustments, defence counsel costs and the appointment of the ad litem judges, whose conditions of service should be similar to those of the International Tribunal for the Former Yugoslavia.

Agenda item 112: Programme budget for the biennium 2002-2003 (*continued*)

Subvention to the United Nations Institute for Disarmament Research (UNIDIR) resulting from the recommendations of the Board of Trustees of the Institute on the work programme of the Institute for 2003 (*continued*) (A/57/7/Add.7, A/C.5/57/4)

20. **The Chairman** said that, since there had been no objection to the request for a subvention to the United Nations Institute for Disarmament Research, he took it that the Committee agreed that the Secretariat should prepare a draft decision on the matter, stating that the Committee:

> "Having considered the note by the Secretary-General on the request for a subvention to the United Nations Institute for Disarmament Research (A/C.5/57/4) and the related report of the Advisory Committee on Administrative and Budgetary Questions (A/57/7/Add.7), approves the request for a subvention to the United Nations Institute for Disarmament Research from the regular budget of the United Nations for 2003".

21. *It was so decided.*

Organization of work

22. **Mr. Christiansen** (Denmark) asked for clarification of the grounds for placing the financing of the United Nations Institute for Training and Research on the agendas of both the Fifth and Second Committees. His delegation could not determine which, if any, resolution had provided the basis for that decision, particularly as the issue appeared to be a purely budgetary one. It wished to have details of how the officers of the Fifth and Second Committees intended to handle the matter.

23. **The Chairman** said that that information would be provided.

The meeting rose at 10.15 a.m.